

# **MEDICAL REVIEW OF TEXAS**

[IRO #5259]

**3402 Vanshire Drive**

**Austin, Texas 78738**

**Phone: 512-402-1400**

**FAX: 512-402-1012**

## **NOTICE OF INDEPENDENT REVIEW DETERMINATION**

TWCC Case Number:	
MDR Tracking Number:	M2-05-0126-01-SS
Name of Patient:	
Name of URA/Payer:	
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician:	Dr. Z, MD
(Treating or Requesting)	

October 18, 2004

An independent review of the above-referenced case has been completed by a medical physician board certified in neurosurgery. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Medical Director

#### CLINICAL HISTORY

This 44-year-old gentleman was apparently injured on \_\_\_\_\_. Within the transcripts reviewed there is no discussion of what his original injury was. However, approximately a year after his injury he had an L5-S1 anterior and posterior fusion performed by Dr. H. According to the records of Dr. N, the patient stated that he did reasonably well one year post-op. He did have some continued pain but was able to work through the pain and he did well up until 2001 when he began having return of his pain. He was working as a security guard which required a great deal of sitting. The patient noted that the sitting was becoming so painful that he ultimately had to quit his job because of the progressive disability from the pain. His chief complaint, at least in 2003, was low back pain. He had a secondary complaint of intermittent pain going down his right leg with numbness and tingling in his fourth and fifth toes. His imaging studies found him to have full incorporation of the grafts at L5 and S1. Because of his pain, Dr. N took \_\_\_\_\_ to the operating room on 1/6/04 and removed his posterior segmental instrumentation at L5 to S1, leaving behind bilaterally fractured S1 pedicle screws. It should be noted that Dr. N wanted to decompress his S1 nerves at that point, but according to Dr. N, was prevented from doing so by the insurance carriers. Post-operatively the patient was complaining of pain going down his right arms into his finger which has been present for a year as well as pain in his low back. Further, he was complaining that he continued to have substantial low back pain extending down his right leg into his lateral foot. Because of the continued pain, Dr. N recommended a caudal epidural, an EMG, a myelogram with CT follow-through as well as a selective nerve root block at S1. CT myelogram was performed and here is where we get into some difficulties. The radiologist dictates that there is mild stenosis at L2 with a retained spinal canal of 8mm. The stenosis was caused apparently by a central disc protrusion with slight cephalad migration. He was also noted to have some disc material abutting his traversing L5 nerve roots at L4, minimally more evident to the right of midline, but there was no real compression or displacement of his nerves. At L5 he was noted to have diffuse posterior disc bulge without a focal protrusion. The S1 nerve roots are not compressed or displaced. There was noted to be

no central canal stenosis and he was also noted to have bilateral lateral mass screws present at S1. Further, the L5-S1 fusion appeared to be solid. The myelographic portion of the procedure noted some ventral extradural defects at L2 without significant exacerbation on flexion/extension views. It was also noted that he had relatively normal filling of his lumbar nerve roots at all levels with no focal nerve root amputation or nerve root swelling evident. With this information, Dr. N recommended that the patient have a caudal epidural steroid block. Further, that if the ESI was not helpful, he would do a translumbar epidural block at L2-3 trying to differentiate the etiology of the patient's symptoms, and he was also recommending an EMG of the right lower extremity. For reasons that are not entirely clear, the EMG has never been performed and, at this point, Dr. N has moved on to recommending a decompressive laminectomy at L2 and re-exploration of the L5 level with an eye towards decompression of both of his S1 roots as well as to remove the fractured screws at S1.

#### REQUESTED SERVICE(S)

Posterior decompression L2-3 with an additional level at L5 and excise internal fixation of L5-S1.

#### DECISION

There is no clinical radiographic evidence to justify such a procedure.

#### RATIONALE/BASIS FOR DECISION

Throughout the notations of Dr. N, starting in March of last year, extending up until June of this year, there is never a mention of any pseudo claudicatory symptoms. What Dr. N discusses is that \_\_\_ is complaining of some abdominal symptoms and Dr. N infers that this is related to the stenosis at L2 which is absolutely an untenable statement. Certainly, as Dr. N is aware, the dermatomes involved in the abdomen are exclusively thoracic. Further, that at L2 we would be expecting the L3 radiculopathy which would be presenting with anterior and medial thigh pain. Dr. N is also aware that with symptomatic pseudoclaudication caused by spinal stenosis, the symptoms are worse when standing and walking. There is no clear discussion of exacerbating or alleviating factors, and certainly nothing that is convincing for pseudoclaudication. Further, his physical exam, which is only dictated on 11/10/03, does not mention anything remotely suggestive of an S1 radiculopathy or an L3 radiculopathy. Thus, we have no clinical evidence, no physical exam evidence, no radiographic evidence and no electromyographic evidence. Of course, the electromyographic evidence is missing because he has not had an

EMG which has been secondary to the denial by the insurance company. There is no reason at all why his retained fragments within the pedicles of either right S1 or S2 should be removed. According to Dr. N's own note, the pedicle screws are well-recessed within the bone and there is obviously no expansion of the pedicles related to those screws, according to the imaging studies and the fact that on myelographic study his S1 nerve roots fill fully. Thus, a posterior decompression of L2, the additional decompression of L5 and the excision of internal fixation at L5 are not warranted on any reasonably accepted grounds.

## YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

**If disputing a spinal surgery prospective decision** a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©).

**If disputing other prospective medical necessity (preauthorization) decisions** a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk  
Texas Workers' Compensation Commission  
P.O. Box 17787  
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 19<sup>th</sup> day of October, 2004.

Signature of IRO Employee: \_\_\_\_\_

Printed Name of IRO Employee: